THE RELATION OF CHICAGO TO PUBLIC SERVICE CORPORATIONS

By George C. Sikes,
Secretary, Municipal Voters' League, Chicago.

The keynote of Chicago's public utility policy is home rule. New York and Massachusetts are tending more and more toward state domination in such matters. Chicago, on the one hand, and New York and Massachusetts on the other, represent opposite tendencies. Wisconsin is steering a middle course between the two. Recent public utility laws of the Badger State provide for a combination of state regulation and local control. In theory the Wisconsin method would seem to be the wisest of the three, but public sentiment in Chicago insists upon the largest measure of home rule, and under the conditions there existing this policy appears to be the safest. Wisconsin has no great cities. Milwaukee, the largest, has a population of only about 300,000. In New York State there are other cities of considerable size besides the metropolis, notably Buffalo, with about 400,000 inhabitants. More important than all other considerations, perhaps, in explanation of the difference of policies, is the fact that New York City and Boston have been less vigorous than Chicago in their determination to oppose state interference in matters of municipal concern. Boston, being the capital of Massachusetts, is able, however, to protect its public rights before the legislature, under a system of state domination, in a better manner than can a community like Chicago, which is not the seat of government. Chicago, with a population of more than 2,000,000, is located in a state which has no other city approaching even 100,000 in population. Chicago and the rest of Illinois do not understand each other as well as they should. The people of Illinois, although they respond readily to such requests for help as can be brought home to them, have a vague general mistrust and fear of the city by the lake. The people of Chicago, on the other hand, have a corresponding fear that the people of the state at large will not comprehend their great city problems, and in case of state control would leave them at the mercy of officials amenable to influence by

special interests. Corporate influences from time to time have suggested state regulation of local public utilities, but the proposition has always met with such popular protest as to doom it to defeat. In fact, Illinois has even failed to provide effective state regulation over matters that properly call for that control, such as the interurban phases of the street railroad business.

In the exercise of the home rule powers which Chicago insists upon, that city appears to be groping toward a public utility policy with rather clearly defined features. Speaking broadly, those features are: (1) short term franchise grants, with reservation to the city of the right of municipal purchase at any time or at stated intervals during the life of the grant; (2) full publicity in the affairs of public utility corporations; (3) regulation of rates and service by the city council; (4) the disposition to promote unification and to recognize the natural monopoly nature of public utility enterprises.

Of local public utilities in Chicago, the street railways have occupied most attention in the public mind. The first street railway franchise grants were made by the city council for twenty-five year periods. The companies in 1865 secured legislation from the state which they confidently believed had changed these twenty-five year grants into ninety-nine year grants. So great was the public outcry at this outrage that the constitutional convention of 1870 sought to make its repetition forever impossible by providing that no future street railway grants could be made without the consent of the proper local authorities. In 1897 Mr. Yerkes, then the dominant figure in Chicago traction matters, came forward with a proposition for a state commission to exercise control over all street railways. Mr. Yerkes' program became a burning political issue and was repudiated. While the state commission plan was defeated, Mr. Yerkes did secure from the legislature of 1897 a law authorizing the city to make fifty year franchise grants, where the statutory limit before had been twenty. But the public outcry against this measure forced its repeal by the succeeding legislature without any grants having been conferred under it in the City of Chicago.

The street railway commission, created by resolution of the city council, submitted a report in December, 1900, outlining a street railway policy for the City of Chicago which has been adhered to by the city more closely than even its framers anticipated

would be the case. That commission recommended securing from the general assembly legislation authorizing the city to own and operate street railways as a prerequisite to any settlement of the street railway franchise question by the city council. It was not the idea of this commission that the city should actually municipalize the lines at once. The Chicago idea is that the city should have full power from the legislature to deal with the general subject in such manner as may seem to it wise. It should be in a position either to municipalize or to secure service through a franchise arrangement with a private corporation. It was another important recommendation of this commission that a modified form of the indefinite term franchise grant in use in Massachusetts be adopted in Chicago. The commission also urged unification, through routes and universal transfers. Due emphasis was laid upon the need for publicity.

In substance these recommendations have all been carried out. The legislature passed an act, known as the Mueller municipal ownership law, giving Chicago the legal power to own and operate street railways. That the legislature did not also confer upon the city at the same time the financial power actually to acquire street railways was due wholly to constitutional limitations which the legislature could not overcome.

The street railway franchise settlement ordinances approved by the people of Chicago on a referendum vote last April, give to the principal street railway companies twenty year renewals of their franchise grants. These grants are subject to termination at any time on specified notice for the following purposes: (1) for city purchase for municipal operation; (2) for purchase by another corporation designated by the city, but if such corporation is organized for profit it must pay for the property twenty per cent more than the city would be obliged to pay; or (3) the grant may be terminated by purchase by a corporation designated by the city which shall agree to forego all profits in excess of five per cent on the investment, and in this case the purchase price shall be the same as the city would be required to pay if it were the purchaser. The purchase price for the city is to be the agreed price of the property at the time the ordinances were passed, which agreed price was inserted in specific figures in the ordinances, plus all new money thereafter expended by the companies under the supervision of the

city. There are provisions designed to take care of depreciation. The ordinances require unified operation, with interchange of transfers between companies. Full publicity of accounts is required.

Under these ordinances, the companies, while they operate, are to receive five per cent, not upon their stock, but upon their recognized investment, and all earnings in excess of the five per cent are to be divided between the city and the companies in the ratio of fifty-five per cent to the city and forty-five per cent to the companies. It is expected that the portion of the city under the first year's operation will amount to nearly $1,500,000. If the intent of the ordinances is carried out these revenues will not be utilized for ordinary municipal purposes, but will be allowed to accumulate towards a purchase fund for the municipal acquisition of the street railways at some future time.

The elevated railroads of Chicago operate under fifty year grants which were made by the city council a dozen or more years ago. There are four elevated railroad systems, in addition to the union elevated loop, which is used jointly by all. At the present time the elevated railroad question is acute through the inability of the companies to handle their traffic properly, and the public is taking advantage of the situation to demand unified operation, through routes and interchange of transfers among the different elevated systems. The public has not yet seriously begun to demand unification and correlation of service as between the elevated roads and the surface roads, but in the order of logical development that is the next step.

The gas company operates under a perpetual franchise secured many years ago. Fifteen or twenty years ago there was an era of competition in gas manufacture. The council gave franchises, usually for fifty-year periods, to competing companies. The effort to maintain competition was abortive. In 1897 the gas and electric lighting interests secured from the legislature a law requiring the consent of abutting property owners as a prerequisite to the granting of a franchise for lighting purposes. The practical effect of this law was to prevent further grants to competing gas companies. By this time the people had become tired of seeking relief through competition. As a result of much agitation, the legislature was forced in 1905 to pass a law authorizing the city council to regulate gas rates. Under the authority thus conferred the price of gas was

reduced by the council from one dollar to eighty-five cents per thousand feet. The reduction was agreed to by the companies without litigation, on consideration that the city on its part would recognize the consolidation of companies and cease its harassing litigation. The price of eighty-five cents was fixed for a period of five years, after which period the council will be in a position to exercise its regulating authority again.

The electric light business has been carried on by the Chicago Edison Company under a twenty-five year franchise, which will expire in 1912. In 1897, when "gang" influences dominated the city council, a fifty year franchise was given to the Commonwealth Company, supposed to be controlled by a group of speculating politicians. Later men powerful in the Edison Company purchased the Commonwealth franchise, and have sought to consolidate the two companies. The company, while claiming the consolidation is completely effected and legal, still seems desirous of securing council's approval for the merger.

The same legislature that authorized the Chicago city council to regulate the price of gas also authorized the reasonable regulation of electric light rates. The council has been wrestling for some time with the question of regulation of such rates. At this writing (March 15), the question is under consideration. The company is willing to agree to make certain rates, and to pay the city three per cent of the gross receipts on its entire business, if the city will recognize the consolidation. Among other things, there is a strong popular demand that the company, as a condition of this ordinance, agree to publicity of its affairs. There are a number of companies doing a small electric lighting business within limited areas, but none except the Commonwealth Edison Company covers the entire city.

The City of Chicago has a municipal electric lighting plant, but it can use the plant only for purposes of public lighting. It cannot sell to private consumers. A strong demand has been made that the legislature authorize the city to engage in the commercial lighting business. The best that could be secured was a provision in the act authorizing rate regulation purporting to confer upon the city the power to sell surplus electricity from its public plant, but it is said to be doubtful if this clause in the law will prove of much practical value.

The bills authorizing the Chicago city council to regulate the price of gas and electricity were bitterly opposed in the legislature by the gas and electric lighting interests. The suggestion that the state create commissions to exercise this regulating authority, instead of vesting it in the city council, was put forth by these interests in vain.

The telephone question has been much under discussion during the past two years. The twenty year grant to the Chicago Telephone Company in 1889 expires next year. Recently the city council has passed an ordinance renewing the grant for another twenty year period, but providing for possible municipal purchase at the end of ten years and at the end of fifteen years, as well as at the date of termination of the grant. This ordinance also calls for publicity in the affairs of the company. It further provides that the rates shall be subject to regulation by the city council thirty months after the passage of the ordinance and at the end of every five year period thereafter.

The water plant in Chicago has been the property of the city for more than half a century.

Less important franchises, such as those for switch track and other like privileges, are commonly made for short terms only and of late years it has been customary to make all such grants subject to termination at any time. The following section is the one that is usually incorporated in such grants:

"The permission and authority herein given shall cease and determine ten (10) years from and after the date of the passage of this ordinance, or at any time prior thereto in the discretion of the mayor. This ordinance shall at any time before the expiration thereof be subject to modification, amendment or repeal, and in case of repeal all privileges hereby granted shall thereupon cease and determine."

The municipal ownership sentiment has been strong in Chicago, and three years ago Judge Edward F. Dunne was elected mayor on the issue of immediate municipalization of street railways. As a reactionary consequence of Mayor Dunne's weak administration, the cause of "immediate" municipal ownership received a serious setback. But it is my opinion that sentiment in Chicago for municipal ownership of public utilities, when it can actually be brought about on proper terms, is as strong as ever.